

Section: Procedural Safeguards 8 VAC 20-80-70

Topic: Parental Consent for Disclosure of Information at IEP Meetings

Question 2-01: Is the school required to obtain parental consent before disclosing personally identifiable information to representatives of other agencies invited by the school to participate in IEP meetings? These persons may include: representatives of agencies involved in transition, participants from a FAPT under CSA, someone the LEA invites with knowledge or special expertise (except school officials from another school the child is attending or plans to attend). When would consent need to be secured?

Answer 2-01 Yes, the school is required to obtain parental consent prior to the disclosure of personally identifiable information (8 VAC 20-80-70 E and the Family Education Rights and Privacy Act).

An IEP is a document maintained by a school that contains personally identifiable information about a student. To disclose information from this document to parties other than school officials whom the agency has determined to have legitimate educational interests without parental consent would violate FERPA.

Consent would need to be obtained prior to the disclosure of information. (Example: Prior to sharing information with other agencies at an IEP meeting, unless the other agency is another school the student is attending or plans to attend.) When inviting representatives from other agencies, the school can not use personally identifiable information in its "Notice" unless the parent has provided consent to disclosure.

A school may ask a parent to sign a blanket consent or one time consent to disclosure rather than a written consent for each particular instance provided that it meets three requirements of informed consent set out in FERPA. One consent form could serve as notice of disclosure to several public agencies, provided each agency is named therein. The one time consent must: (1) provide signature and date; (2) specify what records may be disclosed; (3) provide the purpose, (4) identify the parties disclosure to be made; and (6) provide the time period.

IDEA limits nonconsensual disclosures to officials of "participating agencies" to those permitted under FERPA. FERPA defines participating agencies as "an agency or institution that collects , maintains, or uses personally identifiable information, or from which information is obtained, under this part". An educational agency or institution may disclose personally identifiable information from an education record of a student without parent consent if the disclosure meets one or more of FERPA's exceptions. (FERPA's exceptions do not apply in this case. See §99.30, Under what conditions is prior consent required to disclose information?)

The Commonwealth of Virginia has an interagency consent form for the release of information that was approved by the Office of the Attorney General and is available for use, if desired. See VDOE website, <http://www.pen.k12.va.us/VDOE>.